

2022 Regular Session

SENATE BILL NO. 284

BY SENATOR FOIL

CIVIL PROCEDURE. Provides relative to garnishments. (8/1/22)

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AN ACT

To amend and reenact Code of Civil Procedure Arts. 2412(A) and (D), 2414, and 2415, and to amend and reenact R.S. 13:3921(A), 3923, and to repeal R.S. 20:32, relative to garnishments; to provide for notice of filing of garnishment petitions; to provide for service of garnishment judgments; to provide for garnishment of wages; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Code of Civil Procedure Arts. 2412(A) and (D), 2414, and 2415 are hereby amended and reenacted to read as follows:

Art. 2412. Method of service; delay for answering

A.~~(1)~~ The sheriff shall serve upon the garnishee the citation and a copy of the petition and of the interrogatories, together with a notice that a seizure is thereby effected against any property of or indebtedness to the judgment debtor.

~~(2) The judgment creditor shall send to the judgment debtor written notice of the filing of the garnishment petition by mail or electronic means. However, the notice provided to the judgment debtor shall have no effect on the validity of the seizure.~~

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D. The garnishee shall file his sworn answers to the interrogatories within ~~fifteen~~ **thirty** days from the date of service made pursuant to this Article.

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Art. 2414. Notice of answer; traversing

The clerk shall cause written notice of the filing of the garnishee's answer to be served promptly upon the seizing creditor in the manner provided by Article 1314.

Unless the creditor files a contradictory motion traversing the answer of the garnishee within ~~fifteen~~ **thirty** days after service upon him of the notice of the filing of the garnishee's answer, any property of the judgment debtor in the possession of the garnishee and any indebtedness to the judgment debtor which the garnishee has not admitted holding or owing shall be released from seizure. A new seizure may be made of such property or indebtedness by filing a supplemental petition and serving additional interrogatories.

Art. 2415. Delivery of property or payment of indebtedness to sheriff

When the garnishee admits in his answer, or when on trial of a contradictory motion under ~~Article 2413~~ or Article 2414 it is found that he has in his possession property belonging to the judgment debtor or is indebted to him, the court shall order the garnishee to deliver the property immediately to the sheriff or to pay him the indebtedness when due. Delivery or payment to the sheriff discharges the garnishee's obligation to the judgment debtor to the extent of the delivery or payment.

This article does not apply to garnishment of wages, salaries, **tips** or commissions.

Section 2. R.S. 13:3921(A) and 3923 are hereby amended and reenacted to read as follows:

§3921. Judgment fixing portion subject to seizure, payment to creditor and processing fee

A. In every case in which the wage, ~~or salary,~~ **tips, or other income** of a laborer, wage earner, artisan, mechanic, engineer, fireman, carpenter, bricklayer,

1 secretary, bookkeeper, clerk, employee on a commission basis, or employee of any
 2 nature and kind whatever, whether skilled or unskilled, **or contractor of any nature**
 3 **or kind whatsoever**, shall be garnished either under attachment or fieri facias or as
 4 otherwise provided by law, a judgment shall be rendered by the court of competent
 5 jurisdiction in which the garnishment proceedings may be pending fixing the portion
 6 of such wage, salary, commission, or other compensation as may be exempt, as
 7 provided by law, and providing for the payment to the sheriff, marshal, or constable
 8 for processing prior to payment to the seizing creditor of whatever sum for which
 9 judgment may be obtained, out of the portion of such compensation which is not
 10 exempt.

11 * * *

12 §3923. One writ and one set of interrogatories sufficient, statement of sums due to
 13 be furnished to garnishee; installment payments; reopening case;
 14 retention of jurisdiction; cessation of seizure by garnishment upon
 15 termination of employment

16 A. It shall not be necessary that more than one writ of garnishment or one set
 17 of interrogatories be served in such cases, but the court shall render judgment for the
 18 monthly, semimonthly, weekly, or daily payments to be made to the seizing creditor
 19 according to the manner best suited to the circumstances, until the indebtedness is
 20 paid. The garnisher shall serve upon the garnishee the citation, the petition, the
 21 garnishment interrogatories, the notice of seizure, and a statement of sums due under
 22 the garnishment, such statement to include, but not be limited to, the principal,
 23 interest, court costs incurred to date, and attorney's fee due under the judgment. The
 24 court, in its discretion, may reopen the case upon the motion of any party concerned
 25 for evidence affecting the proper continuance of ~~such~~ **the garnishment** judgment,
 26 and the court shall retain jurisdiction to amend or set aside its **garnishment**
 27 judgment at any time in its discretion; however, all effects of the seizure by
 28 garnishment shall cease upon the termination of employment of the debtor with the
 29 garnishee, unless the debtor is reinstated or reemployed within one hundred eighty

1 days after the termination. Should judgment by default be taken against any party
2 garnishee, he may obtain a reopening of the case upon proper showing and within
3 the discretion of the court.

4 **B. Nothing in this article is meant to affect judgments rendered pursuant**
5 **to Code of Civil Procedure Article 2413.**

6 Section 3. R.S. 20:32 is hereby repealed.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Lebra R. Bias.

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Present law requires the judgment creditor to send the judgment debtor written notice of the filing of the garnishment petition by mail or electronically, and that the notice has no effect on the validity of the seizure. Proposed law repeals present law.

Present law requires the garnishee to file his sworn answers to the interrogatories within 15 days from the date service is made. Proposed law increases the time to answer from 15 days to 30 days from the date of service.

Present law requires the contradictory motion to be filed within 15 days after service of the notice of the filing of the garnishee's answer. Proposed law increases this filing period from 15 to 30 days.

Present law references contradictory motion pursuant to Art. 2413 which allows the judgment creditor to proceed by contradictory motion against the garnishee for the amount of the unpaid judgment plus interest and costs if the garnishee fails to answer the petition within 15 days of being served. Proposed law deletes this reference.

Present law provides that this article does not apply to garnishment of wages, salaries, or commissions. Proposed law adds tips to the list of items this article does not apply to.

Present law provides that judgment can be rendered against the garnishment of wages or salary. Proposed law retains present law and adds tips and other income to the types of garnishments that judgment can be rendered against. Proposed law also adds contractors to the list of wage/salary earners against whom a garnishment judgment can be rendered.

Present law provides that the court may reopen a garnishment case upon motion of any party for evidence affecting the continuance of such judgment. Proposed law specifies that such judgment referred to is the garnishment judgment.

Proposed law provides that this article shall not affect garnishment judgments rendered pursuant to a writ of fieri facias.

Effective August 1, 2022.

(Amends C.C.P. Arts. 2412(A) and (D), 2414, and 2415, and R.S. 13:3921(A) and 3923; repeals R.S. 20:32)